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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  
(Senior Administrative Patent Judge McKelvey)

STEVEN P. NOLAN and JINKUN HUANG,

Senior Party  
(Application 09/392,869).

v.

WOLFGANG ANTON HERRMANN, WOLFGANG SCHATTENMANN  
and THOMAS WESKAMP,

Senior Party  
(Application 11/021,967).

Patent Interference No. 105,372  
Technology Center 1600

**REDECLARATION - Bd.R. 203(c)**

**A. Introduction**

1. In the ORDER SETTING TIMES FOR TAKING ACTION--  
MOTIONS PHASE (Paper 21), Part B(5), it was indicated that a  
formal order redeclaring the interference would be entered during  
the first week in January of 2006.

2. This REDECLARATION is intended to be that formal  
order.

1           **B.    Order**

2                   Substitution of Count 2 for Count 1

3           1.    The parties have agreed that Count 2 should be  
4 substituted for Count 1 (Paper 1, pages 6-7); the board concurs  
5 (Paper 21, page 2).

6           2.    Count 2, which is set out in Appendix 1 of this  
7 REDECLARATION is substituted for Count 1 (Paper 1, page 6-7).

8                   Claim correspondence

9           3.    In a MEMORANDUM OPINION and ORDER -- Bd.R. 104(a)  
10 (Paper 3), the board (1) invited Nolan to correct Fig. 4 of its  
11 drawings and (2) required Nolan to submit a new set of claims.

12           4.    Because the parties have agreed on a count which  
13 the board finds suitable, there is no need for Nolan to file an  
14 amendment (Paper 21, pages 2-3, ¶¶ 6-9).

15           5.    Accordingly, any amendments of the claims  
16 submitted by the parties need not be entered.

17           6.    Instead, the interference can be resolved on the  
18 basis of the Nolan and Herrmann claims presently in the  
19 respective applications involved in the interference.

20           7.    The claims of the parties are:  
21

22           Nolan:     9, 11-14, 17-21, 23-40, 43-65, 71-73 and  
23                       77-111

24           Herrmann: 1-21  
25

1           8.    The claims of the parties which correspond to  
2 Count 2 are [Paper 21, page 2, ¶ B(2)]:

3           Nolan:     9, 11-14, 17-21, 23-39, 45, 51-58, 63-64  
4                     and 77-88

5           Herrmann: 1-21

6  
7           9.    The claims of the parties which do not correspond  
8 to Count 1, and therefore are not involved in the interference,  
9 are [Paper 21, page 2, ¶ B(3)]:

10          Nolan:     40, 43-44, 46-50, 59-62, 65, 71-73 and 89-111

11          Herrmann: None

12                     Priority benefit as to Count 2

13          10.   Consistent with discussion during a conference  
14 call (Paper 21, page 2, ¶ B(4), the benefit accorded in  
15 DECLARATION (Paper 1, pages 3 and 4) is accorded as to Count 2.

16          11.   Nolan was not accorded the benefit for the purpose  
17 of priority of any earlier application.

18          12.   Herrmann is accorded benefit for the purpose of  
19 priority of:

20                   (1)   Application 09/647,742  
21                        filed 27 November 2000  
22                        now U.S. Patent 6,635,768 B1  
23                        issued 21 October 2003

24  
25                   (2)   PCT application PCT/EP99/01785,  
26                        filed 18 March 1999

27  
28                     Nolan request to amend its drawing

29          13.   Nolan has filed an amendment to correct Fig. 4 of  
30 its drawings.

1           14. Entry of the amendment is being authorized in  
2 Grubbs v. Nolan, Interference 105,373.

3           Herrmann priority document translation

4           15. Herrmann has submitted a translation of its German  
5 priority document (Paper 5).

6           16. The Clerk shall place a copy of Paper 5 and its  
7 attachments (copy of German application and translation) in the  
8 IFW file of involved Herrmann application 11/021,967.

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14                               /ss/Fred E. McKelvey  
15                               FRED E. McKELVEY,  
16                               Senior Administrative Patent Judge<sup>1</sup>  
17  
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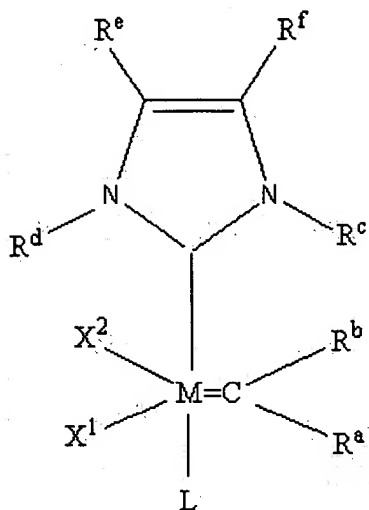
19       6 January 2006  
20       Alexandria, VA

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<sup>1</sup> As part of board efforts under the government Paperwork Elimination Act, signatures on papers originating from the board have been phased out in favor of a completely electronic record. Consequently, in this case papers originating at the board will not have signatures. The signature requirements for the parties have not changed. See, e.g., 37 CFR § 10.18.

Appendix 1

Revised Count



where

**M** is Ru;

**X<sup>1</sup>** and **X<sup>2</sup>** are each independently an anionic ligand;

**L** is an amine, imine, amide, nitrosyl, pyridine, phosphine, phosphite, sulfonated phosphine, phosphinite, phosphonite, stibine, arsine, ether, carbonyl, carboxyl compound, nitrile, alcohol, sulfoxide, thiol, or thioether;

**R<sup>a</sup>** and **R<sup>b</sup>** are either (a) each independently hydrogen, a hydrocarbyl group, a substituted hydrocarbyl group, a silyl group, or a substituted silyl group, or (b) together comprise a ring, with the proviso that in either case, neither **R<sup>a</sup>** nor **R<sup>b</sup>** is C=C(Y)(Z), where Y and Z are each independently any moiety;

**R<sup>c</sup>** and **R<sup>d</sup>** are each independently hydrogen, a hydrocarbon group, or a substituted hydrocarbon group, with the proviso that neither **R<sup>c</sup>** nor **R<sup>d</sup>** is an aryl group substituted with (x) halogen, (y) one

1 or more alkyl groups each having 1 to 5 carbon atoms, or (z) one  
2 or more alkoxy groups each having 1 to 5 carbon atoms; and

3  
4  $R^e$  and  $R^f$  are each independently hydrogen, a hydrocarbyl group, a  
5 substituted hydrocarbyl group, halogen, a nitro group, a nitroso  
6 group, an alkoxy group, an aryloxy group, an amido group, a  
7 carboxyl group, a carbonyl group, a thio group, or a sulfonyl  
8 group.

1 105,372  
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